

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JAMES VINCENT BANKS,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:22-cv-01413-CDS-EJY

**ORDER**

On September 19, 2022, the Court issued a Screening Order permitting two claims to proceed, dismissing one claim with prejudice, and dismissing the remaining claims with leave to amend. ECF No. 3 at 16. The Court gave Plaintiff 30 days from the date of the Screening Order to file an amended complaint that cured the deficiencies of the Complaint. *Id.* The Court specifically stated that if Plaintiff failed to timely file an amended complaint, the action would proceed only (i) against Defendants C. Myer, Oscar Cardenas, Derek Franklin, Joshua Costello, Okada, and Joshua Imperial on the Fourteenth Amendment excessive force claim, and (ii) against Defendants Flitcraft and John Doe Officer on the First Amendment retaliation claim. *Id.* at 17. As of the date of this Order Plaintiff has not filed an amended complaint.

Accordingly, IT IS HEREBY ORDERED that this action will proceed (i) against Defendants C. Myer, Oscar Cardenas, Derek Franklin, Joshua Costello, Okada, and Joshua Imperial on the Fourteenth Amendment excessive force claim, and (ii) against Defendants Flitcraft and John Doe Officer on the First Amendment retaliation claim.

IT IS FURTHER ORDERED that the Clerk of Court must issue summonses for Defendants C. Myer, Oscar Cardenas, Derek Franklin, Joshua Costello, Okada, Joshua Imperial, Flitcraft, and John Doe Officer, and deliver the same to the U.S. Marshal for service together with eight copies of the Complaint (ECF No. 4) and eight copies of this Order for service on these Defendants.

IT IS FURTHER ORDERED that the Clerk of Court must send to Plaintiff eight (8) USM-285 forms together with a copy of this Order.

1 IT IS FURTHER ORDERED that Plaintiff must complete the USM-285 forms for  
2 Defendants C. Myer, Oscar Cardenas, Derek Franklin, Joshua Costello, Okada, Joshua Imperial,  
3 Flitcraft, and John Doe Officer, to the best of his ability, and return the same to the Clerk's Office  
4 by mail no later than **December 5, 2022**.

5 IT IS FURTHER ORDERED that upon receipt, the Clerk's Office must file the USM-285  
6 forms under seal and deliver copies of the same to the U.S. Marshal Service.

7 IT IS FURTHER ORDERED that the U.S. Marshal Service shall attempt to effect service  
8 of the summonses, Complaint, and this Order on Defendants C. Myer, Oscar Cardenas, Derek  
9 Franklin, Joshua Costello, Okada, Joshua Imperial, Flitcraft, and John Doe Officer no later than  
10 fifteen (15) days after receipt of the completed USM-285 forms.

11 IT IS FURTHER ORDERED that once Plaintiff receives a copy of the USM-285 forms  
12 from the U.S. Marshal showing whether service has been accomplished, Plaintiff must file a notice  
13 with the Court identifying which defendant(s) were served and which were not served, if any. If  
14 Plaintiff wishes to have service again attempted on an unserved defendant(s), then a motion must  
15 be filed with the Court identifying the unserved defendant(s) and specifying a more detailed name  
16 and/or address for said defendant(s), or whether some other manner of service should be attempted.

17 IT IS FURTHER ORDERED that Plaintiff will serve Defendants or, if appearance is  
18 entered by counsel, upon the attorney(s), a copy of every pleading, motion or other document  
19 submitted for consideration by the Court. Plaintiff must include with each original paper submitted  
20 for filing a certificate of service stating the date that a true and correct copy of the document was  
21 mailed to the Defendants or Defendant's counsel. The Court may disregard any paper received by  
22 a district or magistrate judge that has not been filed with the clerk, and any paper received by a  
23 district judge, magistrate judge or the clerk that fails to include a certificate of service.

24 DATED this 3rd day of November, 2022.

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26   
27 ELAYNA J. YOUCHAK  
28 UNITED STATES MAGISTRATE JUDGE